

COMMONWEALTH OF MASSACHUSETTS

NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
BOARD OF REGISTRATION IN NURSING

Wednesday, November 13, 2013
9 a.m. to 2 p.m.

239 Causeway Street ~ 4th Floor ~ Room 417A
Boston, Massachusetts 02114
Preliminary Agenda
11/7/2013 3:02 PM

Time	Item #	Item	Exhibits	Staff Contact
9:00 a.m.	I.	Call to Order		
	II.	Approval of Agenda	Agenda	
	III.	Adjudicatory Session	Closed Session	
	IV.	G.L. c. 112, § 65C Session	Closed Session	
10:00 a.m.	V.	Approval of Minutes A. October 16, 2013 Regularly Scheduled Meeting	Minutes	
	VI.	Reports A. Chairperson and Board Members' Reports B. Executive Director's Report C. Staff Report 1. Deputy Executive Director 2. Policy and Research 3. Practice 4. Education 5. Complaint Resolution 6. SARP	none report report report report report report	RH CR None LT None AF/HC VI/DM

Time	Item #	Item	Exhibits	Staff Contact
	VII.	Consensus Agenda A. NCSBN Update B. Coalition for the Prevention of Medical Errors Update C. NCLEX Quarter 3 Report	None September, 2013 minutes & October, 2013 Report Report CS	LT LT CS
	VIII.	Requests for License Reinstatement A. T. Russo, RN/NP227170; RN-00-265	Request memo	TW/MS
10:15 a.m.	IX.	A. Resolution of Pending Board Complaints 1. L. Stephen, LN65097, NUR-2012-0231 2. D. Cameron, LN60184, NUR-2013-0036 3. T. Femia-Bieling, RN2275099, NUR-2013-0055 4. L. Siano, RN124544, NUR-2013-0132 5. J. Nevins, RN214689 NUR-2013-0150 6. C. Twombly, LN55294, NUR-2013-0170 7. S. Medeiros, RN279954, NUR-2013-0134 8. S. Pimental, LN65830, NUR-2013-0125 9. S. Woodman, LN69451, NUR-2013-0070 10. B. Klemm-Ellis, RN/NP188795, NUR-2013-0035 11. J. Reed, RN250494, NUR-2013-0149 12. A. Finlay, LN69025, NUR-2012-0219 B. Resolution of Pending Board Staff Assignments 1. R. Kimidi, LN66047, SA-INV-3152 2. A. Pecora, RN213942, SA-INV-2896 3. G. Ready, RN/NP232042, SA-INV-3622 4. J. O'Sullivan-Oliveira, RN/NP211104, SA-INV-3405 5. J. Opoku-Agyeman, RN258553, SA-INV-4320	Investigative Report (IR) IR IR IR IR IR IR IR IR IR IR IR IR IR IR IR	MFS/ASF MFS/ASF MFS/ASF MFS/ASF MFS/ASF MFS/ASF MFS/ASF MFS/HC MFS/HC MEM/HC MEM/HC MEM/HC ES/HC CL/HC CL/ASF MFS/ASF MFS/HC MEM/HC

Time	Item #	Item	Exhibits	Staff Contact
12 -1 p.m.		Lunch		
	X.	Practice A. Rescission of AR 0101: <i>Medical Aesthetic Procedures</i> and AR 0001: <i>Non-Ablative and Non-Laser Sources Device Use</i> concurrent with issuance of AR 1301: <i>Cosmetic and Dermatologic Procedures</i>	Memo	LT
	XI.	Education A. 244 CMR 6.08(1)(a) Evaluation of Approval Status: Blue Hills Regional Technical School Practical Nurse Program	Compliance Report	CS
	XII.	Revision: Licensure Policy 00-01 Determination of Good Moral Character Compliance	Memo Draft Policy	HC
	XIII	Remote Participation at Meetings Subject to the Open Meeting Law (OML)	Memo	RH
Tentatively Scheduled for 9:00 a.m.	XIV.	Executive Session	Closed Session	TW
	XVII.	Announcements/Other		
2:00 p.m.	XVII.	Adjournment		

**COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN NURSING**

239 Causeway Street, Room 417A
Boston, MA 02114

**Minutes of the Regularly Scheduled Board Meeting
Wednesday, November 13, 2013**

Board Members Present

K. Gehly, RN/NP, Vice Chair
M. Beal, RN/NM
P. Gales, RN
J. Killion, LPN
B. Levin, RN
A. Peckham, RN
E. Richard Rothmund, Public Member
C. Simonian, PharmD, RPh
C. Tebaldi, RN/NP

Board Members Not Present

S. Kelly, RN/NP, Chair
J. Roy, RN

Board Staff Present

R. Harb, RN, Executive Director
V. Berg, JD, Board Counsel
A. Fein, RN, JD, Complaint Resolution Coordinator
V. Iyawe, RN, SARP Coordinator
D. McLellan, RN, SARP Coordinator
C. Robertson, RN, Deputy Executive Director
C. Silveira, RN, Assistant Director for Policy and Research
M. Strachan, JD, Board Counsel
L. Talarico, RN/NP, Nursing Practice
T. Westgate, Paralegal
C. Jackson, BA, SARP/MPRS Coordinator

Board Staff Not Present

H. Cambra, RN, JD, Complaint Resolution
Coordinator

Guests

See attached list.

TOPIC:

Call to Order

DISCUSSION:

A quorum of the Board was present.

ACTION:

At 9:06 a.m., K. Gehly, Vice Chairperson, called the November 13, 2013, Regularly Scheduled Board Meeting to order.

TOPIC:

Approval of the Agenda

DISCUSSION:

Staff requested that Item XIV, Executive Session, be reordered and placed first on the agenda, before agenda item III

ACTION:

Motion by B. Levin, seconded by P. Gales, and unanimously passed to approve the agenda as revised.

TOPIC:

G.L. c.30A, §21 Executive Session

DISCUSSION:

None

ACTION:

Motion by C. Simonian, seconded by J. Killion, and unanimously passed by roll call vote to go into Executive Session at 9:07 a.m. as per Purpose One of G.L. c.30A, §21 (a)(1) with the Open Session to reconvene upon conclusion of the Executive Session and move into Adjudicatory Session.

G.L. c. 30A, § 21 Executive Session 9:07 a.m. – 9:22 a.m.

TOPIC:

Adjudicatory Session

DISCUSSION:

None

ACTION:

Motion by E. R. Rothmund, seconded by J. Killion, and unanimously passed by roll call vote to go into Adjudicatory Session at 9:22 a.m. to discuss decisions in pending adjudicatory matters.

Adjudicatory Session 9:22 a.m. to 9:37 a.m.

TOPIC:

G.L. c. 112, s. 65C Session

DISCUSSION:

None

ACTION:

Motion by E. R. Rothmund, seconded by J. Killion, and unanimously passed by roll call vote to go into G.L. c. 112, s. 65C Session at 9:37 a.m. to discuss negotiated settlements of complaints.

G.L. c. 112, s. 65C Session 9:37 a.m. to 10:37 a.m.

RECESS 10:37 a.m. to 10:50 a.m.

TOPIC:

Approval of the Minutes of the October 16, 2013, Regularly Scheduled Board Meeting

DISCUSSION:

None

ACTION:

Motion by E. R. Rothmund, seconded by B. Levin, and unanimously passed to accept the Minutes of the October 16, 2013, Regularly Scheduled Board Meeting.

TOPIC:

Reports

- A. Chairperson and Board Members' Reports
- B. Executive Director's Report
- C. Staff Reports
 - 1. Deputy Executive Director
 - 2. Associate Director
 - 3. Practice
 - 4. Education
 - 5. Complaint Resolution
 - 6. SARP
 - 7. Probation Monitor

DISCUSSION:

- A. Chairperson and Board Members Reports: None
- B. Executive Director's Report: Board members reviewed R. Harb's previously distributed report
- C. Staff Reports:
 - 1. Board members reviewed C. Robertson's previously distributed report
 - 2. None
 - 3. Board members reviewed L. Talarico's previously distributed report
 - 4. None
 - 5. Board members reviewed A. Fein's and H. Cambra's previously distributed report
 - 6. Board members reviewed V. Iyawe's and D. Mclellan's previously distributed report

ACTION:

- A. So noted.
- B. So noted.
- C. So noted.

TOPIC:

Consensus Agenda

- A. NCSBN Update
- B. Coalition for the Prevention of Medical Errors Update
- C. NCLEX Quarter 3 Report

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(Approved January 8, 2014)

DISCUSSION:

- A. NCSBN Update: None
- B. Coalition for the Prevention of Medical Errors Update: Board members were provided the October 2013 minutes and November 2013 report provided by the Coalition for the Prevention of Medical Errors.
- C. NCLEX Quarter 3 Report. C. Silveira provided an oral comparison of the Quarter 3 2013 NCLEX-RN performance with Quarter 3 2012, noting that the National Council of State Boards of Nursing has reported that a decline in NCLEX pass rates is predictable following an increase in an NCLEX passing standard. The NCLEX-RN passing standard was increased on April 1, 2013.

ACTION:

- A. Accepted by consensus
- B. Accepted by consensus
- C. Accepted by consensus

TOPIC:

Requests for License Reinstatement

- 1. Theresa Russo, RN/NP License No. 227170, RN-00-265

DISCUSSION: Board members reviewed T. Westgate's previously distributed memo

1. Theresa Russo, RN/NP License No. 227170, RN-00-265; Licensee admitted that she practiced as an APRN for an extended period without the necessary physician supervision and without written guidelines for prescriptive practice. In addition, she admitted that in violation of APRN regulation 244 CMR 4.27, she prescribed controlled substances for herself and her husband. She entered into a CA for VS of her RN License with the Board in resolution of the complaint. The CA did not directly address her APRN authorization. The Board granted her request for reinstatement of her RN license at their September 8, 2010 meeting on the condition that she enter into a CA for the Probation of her RN license for 1 year with standard requirements and completes the MA Practice Act and six (6) contact hours in Legal & Ethical Issues of Nursing. The new CA also did not directly address the prescriptive practice issues. This new request for reinstatement is limited to the issue of her APRN authorization.

ACTION: Motion by E.R. Rothman, seconded by C. Simonian and unanimously voted to accept the Licensee's request for reinstatement of her authorization to practice as an APRN, with no conditions, as she has met all the terms.

TOPIC:

A. Resolution of Pending Board Complaints

- 1. L. Stephen, LN65097, NUR-2012-0231
- 2. D. Cameron, LN60184, NUR-2013-0036
- 3. T. Femia-Bieling, RN2275099, NUR-2013-0055
- 4. L. Siano, RN124544, NUR-2013-0132
- 5. J. Nevins, RN214689, NUR-2013-0150
- 6. C. Twombly, LN55294, NUR-2013-0170
- 7. S. Medeiros, RN279954, NUR-2013-0134
- 8. S. Pimental, LN65830, NUR-2013-0125
- 9. S. Woodman, LN69451, NUR-2013-0070

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10. B. Klemm-Ellis, RN/NP188795, NUR-2013-0035
11. J. Reed, RN250494, NUR-2013-0149
12. A. Finlay, LN69025, NUR-2012-0219

B. Resolution of Pending Board Staff Assignments

1. R. Kimidi, LN66047, SA-INV-3152
2. A. Pecora, RN213942, SA-INV-2896
3. G. Ready, RN/NP232042, SA-INV-3622
4. J. O'Sullivan-Oliveira, RN/NP211104, SA-INV-3405
5. J. Opoku-Agyeman, RN258553, SA-INV-4320

TOPIC: Resolution of Pending Board Complaints

1. Board review and action on pending complaint, L. Stephen, LN65097, NUR-2012-0231

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by B. Levin, seconded by A. Peckham and voted unanimously to refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication. Alternatively, in final settlement of this matter the Licensee may also be offered SARP if determined eligible or a STANDARD CONSENT AGREEMENT FOR SURRENDER of her LPN license for an indefinite period with reinstatement requirements that also include the standard either/or substance abuse related requirements, standard medical and mental health evaluations, the standard criminal activity related requirements, documentation of her successful completion of six (6) contact hours on Medication Administration and Documentation in Nursing that includes the topic of Controlled Substance Security, three (3) contact hours on Legal and Ethical Aspects of Nursing and three (3) contact hours on Critical Thinking and Judgment in Nursing Practice, and a STANDARD POST-SURRENDER PROBATION for at least one (1) year.

TOPIC: Resolution of Pending Board Complaints

2. Board review and action on pending complaint, D. Cameron, LN60184, NUR-2013-0036

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances. They discussed whether there was a need for a public record of the Licensee's practice breakdown particularly based on the fundamental nature of the practice issues presented, her failure to communicate or document her application of a heat pack to the patient and the significant length of time that the Licensee has been licensed as an LPN and practicing.

ACTION:

Motion by E.R. Rothmund, seconded by C. Simonian to offer the Licensee a STANDARD CONSENT AGREEMENT for a NON-DISCIPLINARY PROBATION of her LPN license for six (6) months and vote *failed* with J. Killion, E.R. Rothmund, C. Tebaldi and M. Beal in favor, and C. Simonian, B. Levin, P. Gales, A. Peckham and K. Gehly in opposition. Motion by P. Gales, seconded by B. Levin and voted 1/22/2014

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unanimously to refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication. Alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT for REPRIMAND *on the condition that* within thirty (30) days of notice to her, she submits documentation satisfactory to the Board of her positive nursing practice since the incident that gave rise to this complaint and her successful completion of six (6) contact hours on The Use of Heat Therapy in Nursing Practice that includes the topic of Contraindications and Considerations, and six (6) contact hours on Critical Thinking and Clinical Judgment in Nursing. If the Licensee does not provide the documentation as designated, above, she may be offered a STANDARD CONSENT AGREEMENT for PROBATION for one (1) year with requirements that also include documentation of her successful completion of six (6) contact hours on The Use of Heat Therapy in Nursing Practice that includes the topic of Contraindications and Considerations, and six (6) contact hours on Critical Thinking and Clinical Judgment in Nursing.

TOPIC: Resolution of Pending Board Complaints

3. Board review and action on pending complaint, **T. Femia-Bieling, RN2275099, NUR-2013-0055**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by C. Simonian, seconded by A. Peckham and voted unanimously to DISMISS the complaint without prejudice based on insufficient evidence to substantiate the allegation of diversion presented by the complaint, however include a NON-DISCIPLINARY CAUTION to the Licensee that all nurses licensed by the Board must adhere to standards of practice requiring a nurse to establish and maintain appropriate professional boundaries with all patients and former patients.

TOPIC: Resolution of Pending Board Complaints

4. Board review and action on pending complaint, **L. Siano, RN124544, NUR-2013-0132**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. A. Fein also informed that Board about the following: (1) upon further discussion and consideration by Board counsel in consultation with the legal staff in the DPH Office of General Counsel, an amendment to the proposed Interim Consent Agreement Not to Practice (proposed Interim Agreement) signed by the Licensee dated 9/9/13 has *not* been prepared and Board counsel does *not* recommend that the Board ratify the Interim Agreement, and should instead proceed expeditiously with the final resolution of this complaint; and (b) the court docket records for Docket 1350CR001745 were received showing that on 8/28/13 the Licensee was arraigned in Malden District court on a charge of Larceny Over \$250 based on the conduct that gave rise to this Board complaint, and on 11/13/13, A. Fein, CRC contacted the Malden District Court, Criminal Court Clerk's office for the status of this charge and was informed that the case has been continued for a motion scheduled for 1/18/14.

The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition with the exception of modifying the mental health evaluation to a forensic mental health evaluation based on the Licensee's criminal history.

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ACTION:

Motion by P. Gales, seconded by B. Levin and voted unanimously to: (a) deny ratification of the proposed Interim Non-Disciplinary Consent Agreement Not to Practice (Interim Agreement) signed by the Licensee dated 9/9/13 and proceed expeditiously with the final resolution of the complaint, (b) refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication, and (c) alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT FOR SURRENDER of her RN license and right to renew her nursing license for an indefinite period with reinstatement requirements that also include the standard criminal related requirements, a standard forensic mental health evaluation, documentation of her successful completion of six (6) contact hours on Legal and Ethical Aspects of Nursing and six (6) contact hours on Critical Thinking and Judgment in Nursing Practice, and a POST-SURRENDER PROBATION for a period of time and with requirements that the Board determines at the time of her license reinstatement are necessary for the protection of the public.

TOPIC: Resolution of Pending Board Complaints

5. Board review and action on pending complaint, **J. Nevins, RN214689 NUR-2013-0150**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by J. Killion, seconded by C. Simonian and voted unanimously to refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication. Alternatively, in final settlement of this matter the Licensee may also be offered SARP if determined eligible or a STANDARD CONSENT AGREEMENT FOR SURRENDER of her RN license for an indefinite period with reinstatement requirements that also include the standard either/or substance abuse related requirements, a standard mental health evaluation (that may be incorporated in the addictionologist evaluation if the Licensee obtains this alternative), the standard criminal activity related requirements, documentation of her successful completion of six (6) contact hours on Legal and Ethical Aspects of Nursing and six (6) contact hours on Critical Thinking and Judgment in Nursing Practice, and a STANDARD POST-SURRENDER PROBATION AGREEMENT for at least one (1) year.

TOPIC: Resolution of Pending Board Complaints

6. Board review and action on pending complaint, **C. Twombly, LN55294, NUR-2013-0170**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by B. Levin, seconded by A. Peckham and voted unanimously to refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication. Alternatively, in final settlement of this matter the Licensee may also be offered SARP if determined eligible or a STANDARD CONSENT

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AGREEMENT FOR SURRENDER of his LPN license for an indefinite period with reinstatement requirements that also include the standard either/or substance abuse related requirements, the standard criminal activity related requirements, documentation of his successful completion of six (6) contact hours on Medication Administration and Documentation in Nursing, three (3) contact hours on Legal and Ethical Aspects of Nursing, three (3) contact hours on Pain Management in Nursing and three (3) contact hours on Critical Thinking and Judgment in Nursing Practice, and a STANDARD POST-SURRENDER PROBATION for at least one (1) year.

TOPIC: Resolution of Pending Board Complaints

7. Board review and action on pending complaint, S. Medeiros, RN279954, NUR-2013-0134

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. M. Strachan asked if the facility had notified DCP about the incident presented by this complaint. M. Sheckman identified that she did not expect so as the medications involved in this incident were the patient's own personal supply that she had brought with her on admission. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by J. Killion, seconded by M. Beal and voted unanimously to refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication. Alternatively, in final settlement of this matter the Licensee may also be offered SARP if determined eligible or a STANDARD CONSENT AGREEMENT FOR SURRENDER of her RN license for an indefinite period with reinstatement requirements that also include the standard either/or substance abuse related requirements, a standard mental health evaluation (that may be incorporated in the addictionologist evaluation if the Licensee obtains this alternative), the standard criminal activity related requirements, documentation of her successful completion of six (6) contact hours on Legal and Ethical Aspects of Nursing, six (6) contact hours on Critical Thinking and Judgment in Nursing Practice and six (6) contact hours on Patient Rights, and a STANDARD POST-SURRENDER PROBATION for at least one (1) year.

TOPIC: Resolution of Pending Board Complaints

8. Board review and action on pending complaint, S. Pimental, LN65830, NUR-2013-0125

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. A. Fein identified since there seemed to be a typographical error regarding whether the Licensee had improperly removed narcotics during one or two shifts, she suggested that for the purposes of action on this complaint the members should consider that the practice breakdown substantiated by the investigation occurred during only one shift. The Board members agreed and also considered the existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by E.R. Rothmund, seconded by C. Simonian, and voted unanimously to refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication. Alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT FOR PROBATION of her LPN license for six (6) months that also requires documentation of her successful

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completion of six (6) contact hours on Medication Administration and Documentation in Nursing, three (3) contact hours on Legal and Ethical Aspects of Nursing, three (3) contact hours on Pain Management in Nursing and three (3) contact hours on Critical Thinking and Judgment in Nursing Practice, and submission to the Board satisfactory documentation of the successful completion of the required continuing education for the last two licensure renewal cycles.

TOPIC: Resolution of Pending Board Complaints

9. Board review and action on pending complaint, **S. Woodman, LN69451, NUR-2013-0070**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. In response to B. Levin, M. Sheckman identified that she had no information that another nurse came on duty after the Licensee left. E.R. Rothmund asked if any criminal charges had been brought against the nurse. M. Sheckman responded that none had been according to the information she had received as of the date she completed the investigation. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by C. Simonian, seconded by B. Levin and voted unanimously to refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication. Alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT FOR SUSPENSION of her LPN license for an indefinite period with reinstatement requirements that also include documentation of her successful completion of at least ten (10) contact hours in Tracheostomy Care and Respiratory Assessment, three (3) contact hours on Critical Thinking and Judgment in Nursing Practice. The surrender period to be followed by a STANDARD POST-SUSPENSION PROBATION, which does not allow practice within the home care setting, for one (1) year.

TOPIC: Resolution of Pending Board Complaints

10. Board review and action on pending complaint, **B. Klemm-Ellis, RN/NP188795, NUR-2013-0035**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition with the modification of the remedial continuing education and specifying that a five (5) year surrender period consistent with its requirements set forth in the Board's Good Moral Character policy was appropriate particularly in light of the substantial length of years that the Licensee practiced as a Nurse Practitioner without renewing her certification without valid justification. The members also discussed the appropriateness for the surrender to apply to both her NP authorization and RN license

ACTION:

Motion by J. Killion, seconded by C. Simonian and voted unanimously to refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication. Alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT FOR SURRENDER of her RN license and Advanced Practice Authorization for at least five (5) years with reinstatement requirements that also include documentation of her successful completion of three (3) contact hours on

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Legal and Ethical Aspects of Nursing, and three (3) contact hours on Critical Thinking and Judgment in Nursing Practice, as well as a signed affidavit that she has reviewed and understands the Board's APRN modules which may be found at:

<http://www.mass.gov/eohhs/gov/departments/dph/programs/hcq/dhpl/nursing/nursing-practice/aprn/preparing-for-advance-practice-registered-nursing.html>.

TOPIC: Resolution of Pending Board Complaints

11. Board review and action on pending complaint, **J. Reed, RN250494, NUR-2013-0149**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition with the addition of required remedial education on the topic of vaccine integrity and safety.

ACTION:

Motion by E.R. Rothmund, seconded by P. Gales and voted unanimously to refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication. Alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT FOR SURRENDER of her RN license for an indefinite period with reinstatement requirements that also include the standard documentation of her successful completion of six (6) contact hours on Medication Administration and Documentation in Nursing, three (3) contact hours on Legal and Ethical Aspects of Nursing, and three (3) contact hours on Critical Thinking and Judgment in Nursing Practice, and completion with a passing score on the EDGT Course entitled Infection Control, and a signed affidavit that she has reviewed and understands the CDC's published guidelines on Vaccine Safety, Administration, and Follow-up. The surrender period to be followed by a STANDARD POST-SURRENDER PROBATION for six (6) months.

TOPIC: Resolution of Pending Board Complaints

12. Board review and action on pending complaint, **A. Finlay, LN69025, NUR-2012-0219**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the complaint with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by E.R. Rothmund, seconded by C. Simonian and voted unanimously to refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication. Alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT FOR PROBATION of her LPN for one (1) year with conditions to include documentation of her successful completion of six (6) contact hours on Medication Administration and Documentation in Nursing, three (3) contact hours on Legal and Ethical Aspects of Nursing, three (3) contact hours on Detection and Prevention of Patient Abuse and three (3) contact hours on Critical Thinking and Judgment in Nursing Practice.

TOPIC: Resolution of Pending Staff Assignments

1. Board review and action on pending staff assignment, **R. Kimidi, LN66047, SA-INV-3152**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the staff assignment with Board members. The members acknowledge the conflicting accounts of the interactions between the Licensee and the complainant, absence of witnesses to their exchange, that probable cause was not found to support any criminal charge against the Licensee and the charges were dismissed, and that the Licensee left his employment in good standing, eligible for rehire. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by P. Gales, seconded by B. Levin and voted unanimously to CLOSE the Staff Assignment without further action based on insufficient evidence to establish the allegations

TOPIC: Resolution of Pending Staff Assignments

2. Board review and action on pending staff assignment, **A. Pecora, RN213942, SA-INV-2896**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the staff assignment with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by E.R. Rothmund, seconded by B. Levin and voted unanimously to CLOSE the Staff Assignment without further action without prejudice as a complaint is not warranted based on consideration of all of the circumstances presented.

TOPIC: Resolution of Pending Staff Assignments

3. Board review and action on pending staff assignment, **G. Ready, RN/NP232042, SA-INV-3622**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the staff assignment with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by B. Levin, seconded by M. Beal and voted unanimously to CLOSE the Staff Assignment without further action as a complaint is not warranted based on a consideration of all the information received in this investigation.

TOPIC: Resolution of Pending Staff Assignments

4. Board review and action on pending staff assignment, **J. O'Sullivan-Oliveira, RN/NP211104, SA-INV-3405**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the staff assignment with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by B. Levin, seconded by J. Killion and voted unanimously to CLOSE the Staff Assignment without further action based on no evidence to substantiate the allegations

TOPIC: Resolution of Pending Staff Assignments

5. Board review and action on pending staff assignment complaint, **J. Opoku-Agyeman, RN258553, SA-INV-4320**

DISCUSSION: The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations for basis for action and action on the staff assignment with Board members. The members considered the evidence obtained during the investigation relevant to the Licensee's nursing related practices including existing aggravating and mitigating circumstances and adopted the CRC recommendations for disposition.

ACTION:

Motion by P. Gales, seconded by B. Levin and voted unanimously, with C. Tebaldi disclosing that she is employed at the facility but does not have knowledge of the Licensee or the incident that gave rise to the complaint outside of her Board duties, to CLOSE the Staff Assignment without further action based upon insufficient evidence to establish the allegations.

Lunch Recess 12:30 p.m. – 1:04 p.m.

TOPIC:
Practice

DISCUSSION:

Rescission of Advisory Ruling (AR) 0101: *Medical Aesthetic Procedures* and AR 0001: *Non-Ablative and Non-Laser Sources Device Use* concurrent with issuance of AR 1301: *Cosmetic and Dermatologic Procedures* based upon recommendations of Nursing Practice Advisory Panel as outlined in previously distributed memo.

ACTION:

Motion by E. Rothmund, seconded by P. Gales, and unanimously voted to:

Rescind both Advisory Ruling 0101: *Medical Aesthetic Procedures* and Advisory Ruling 0001: *Non-Ablative and Non-Laser Sources Device Use* and issue Advisory Ruling 1301: *Cosmetic and Dermatologic Procedures* to guide registered nurses and licensed practical nurses whose practice includes cutaneous and aesthetic procedures that will:

1. Reduce AR redundancy by combining two AR that provide similar guidance for cutaneous and aesthetic procedures.

2. Clarify the requirement that registered nurses and licensed practical nurses must receive orders that specify the medication/substance, dosage, anatomical site and/or device use from a duly authorized prescriber prior to performing cutaneous and aesthetic procedures.
3. Add references to additional statutes and regulations:
 - a. 244 CMR 9.03(5): Adherence to Standards of Nursing Practice
 - b. 244 CMR 9.03(8): Identification Badge
 - c. 244 CMR 9.03 (14): Asepsis and Infection Control
 - d. 244 CMR 9.03(44) Documentation
 - e. 244 CMR 9.03(46): Responsibilities of Nurse in Management Role
 - f. M.G.L. c. 111, § 51
4. Specify that registered nurses and licensed practical nurses who perform cutaneous and aesthetic procedures pursuant to orders from duly authorized prescriber in a setting that meets the requirements of Department of Public Health *Advisory on Medical Spa Services* that identifies the settings in which such procedures can be performed, pursuant to 105 CMR 140.000.
5. Specify that educational criteria include anatomy, physiology, pathophysiology regarding the integumentary (skin) system as well as systems specific to the procedure being performed. Also require education in biophysics and tissue interactions, clinical applications, pharmacology, drug administration and side effects, patient care and management, patient safety, safety of the treatment environment, appropriate use of equipment, and, when laser device use is included, the American National Standard for Safe Use of Lasers in Health Care (ANSI Z136.3 standards).
6. Specify that nurses whose practice includes cosmetic and dermatologic procedures may not practice in an organization that does not have policies and procedures that include:
 - a. A requirement for informed consent;
 - b. A requirement for a comprehensive, documented evaluation;
 - c. Recommendations for self care;
 - d. Follow-up recommendations;
 - e. Situations that require referral;
 - f. Management of side effects; and
 - g. Provisions for emergent care.
7. Delete the previous AR requirement for RN and LPN to obtain malpractice insurance. Pursuant to M.G.L. c. 112, s 80B the Board is authorized to promulgate regulations requiring advanced practice nurses to have professional malpractice liability insurance, however, the authorization does not extend to RN and/or LPN practice.

TOPIC:

244 CMR 6.08(1)(a) Evaluation of Approval Status: Blue Hills Regional Technical School Practical Nurse Program

DISCUSSION:

Vice-Chairperson, K. Gehley, invited representatives of the Blue Hills Regional Technical School Practical Nurse Program, James Quaglia, Mary Beth Joyce and Betty Tangney, to be present at the table. Members reviewed C. Silveira's previously distributed memo and noted the Board was in receipt of correspondence from Mr. Quaglia, Superintendent-Director, Blue Hills Regional Technical School, dated

1/22/2014

(Approved January 8, 2014)

9/3/13 notifying the Board of the appointment of Betty Tangney, MS, RN, as the new administrator of the Practical Nurse Program. Ms. Tangney's resume, which was included with the Superintendent-Director's notice, indicated Ms. Tangney possessed an MA Registered Nurse license in good standing; a graduate nursing degree in nursing education; and 38 years of nursing experience including several years in professional staff development and only two months as a Fundamentals Laboratory Instructor, Simmons College Accelerate Graduate Nursing Program, in July – August 2007. In her memo, Ms. Silveira further noted that the Board has historically interpreted "nursing education" for the purpose of 244 CMR 6.04(2)(a)3 to mean employment in *academic* nursing education as opposed to the professional development of licensed nursing staff (Ms. Silveira's memo to the Board referred to the 3/9/5 Action Regarding Montachusett Regional Vocational Technical School Practical Nurse Program Administrator Appointment).

Board members also noted that Ms. Silveira spoke on 9/19/13 and 9/26/13 with Ms. Joyce, Director of Admissions and Financial Aid, Blue Hills Regional Technical School, to whom Ms. Tangney directly reports, to discuss her finding that Ms. Tangney's nursing education experience is not consistent with 244 CMR 6.04(2)(a) 3 and to see if an alternative administrator appointment from the Practical Nurse Program faculty could be made. The Superintendent-Director, in his correspondence dated 10/3/13, responded, providing a summary of Ms. Tangney's "nursing education experience" and stating that the required three years of nursing education experience is open for discussion and interpretation.

C. Simonian asked Ms. Silveira to clarify the role differences found in the administration of academic nursing education as opposed to the professional development of licensed nursing staff. Ms. Silveira responded that while there are some transferable skills, the focus of academic nursing education is the acquisition of nursing competencies to prepare the graduate for safe, entry-level practice versus the maintenance or enhancement of nursing competencies of licensed nurses; and that the NCLEX Detailed Test Plan and National League for Nursing Accrediting Commission accreditation standards serve as standards for the evaluation of entry-level nursing education programs.

Mr. Quaglia stated that the Practical Nurse Program is well recognized in the community but that it was becoming difficult to staff the program; he noted that only two individuals applied for the administrator position. Mr. Quaglia asked the Board if an administrator could be appointed on a part-time basis. Ms. Silveira responded that regulation 244 CMR 6.04(1)(c) requires the appointment of an administrator qualified under 244 CMR 6.04(2)(a) to administer a Board-approved nursing education program on a full-time basis.

ACTION:

Motion by P. Gales, seconded by M. Beal, and voted unanimously to take the following actions in the absence of regulatory criteria for the waiver of 244 CMR 6.04(2) (a) relative to the qualifications for appointment as a program administrator:

1. Find that:
 - a. At this time, Ms. Tangney's nursing experience does not include at least three years of nursing education experience required at 244 CMR 6.04(2)(a) 3 for appointment as the administrator of the Practical Nurse Program, Blue Hills Regional Technical School; and
 - b. Blue Hills Regional Technical School has not complied with 244 CMR 6.04(1) (c) in its appointment of Ms. Tangney as program administrator.
2. Direct the Blue Hills Regional Technical School to demonstrate compliance with 244 CMR 6.04(1) (c) effective no later than 12/10/13 by submitting a written notice to the Board of the appointment of

either an interim or permanent administrator qualified under 244 CMR 6.04(2)(a). Such notification must be received by the Board by no later than 11/29/13.

3. In the event the Blue Hills Regional Technical School is unable to demonstrate compliance with 244 CMR 6.04(1) (c) in the appointment of a Practical Nurse Program administrator qualified under 244 CMR 6.04(2)(a) effective no later than 12/10/13, then during its 12/11/13 meeting, the Board will change the approval status of the Blue Hills Regional Technical School Practical Nurse Program from Full Approval to Approval with Warning status.

Motion by Ms. Gales, seconded by M. Beal and voted unanimously to amend Ms. Gales' previous motion for the purpose of allowing additional time for the school to attempt to comply with 244 CMR 6.04(1)9c) appoint, directing the Blue Hills Regional Technical School to demonstrate compliance with 244 CMR 6.04(1) (c) by no later than 1/7/14; the Board must receive written notification of the appointment of a qualified administrator by no later than 12/25/13; and that in the event the Blue Hills Regional Technical School is unable to demonstrate compliance with 244 CMR 6.04(1) (c) effective no later than 1/7/14, then during its 1/8/14 meeting, the Board will change the approval status of the Blue Hills Regional Technical School Practical Nurse Program from Full Approval to Approval with Warning status. The Board will specify at that time the time frame in which Blue Hills must correct its regulatory deficiency at 244 CMR 6.04(1)(c).

TOPIC:

Revision: Licensure Policy 00-01 Determination of Good Moral Character Compliance (GMC)

DISCUSSION:

Board members reviewed H. Cambra previously distributed memo proposing three revisions. Board Counsel explained to Board members that the Division's legal staff and DPH's legal staff is reviewing the Division's policies and procedures to assure compliance with all relevant statutes and case law, therefore, there may be additional revisions to the GMC policy in the future.

ACTION:

Motion by J. Killion, seconded by B. Levin, and unanimously voted to revise licensure policy 00-01 and related documentation related to the Board's evaluation and action on applications, disposition of incomplete GMC applications and removal of certain motor vehicle violations from the required disclosures

TOPIC:

Remote Participation at Meetings Subject to the Open Meeting Law (OML)

DISCUSSION:

Board members reviewed D. Levin and L. Snelling November 22, 2011 memo announcing the AG's office promulgation of new regulations at 940 CMR 29.10, effective November 11, 2011

ACTION:

Motion by P. Gales, seconded by M. Beal, and unanimously voted to allow remote participation at Nursing Board meetings consistent with the requirement of section 29.10

TOPIC:

Announcements

DISCUSSION:

Ms. Harb asked members to agree on a special meeting day to review one adjudicatory matter that needs to be addressed by a quorum of the Board by December 2, 2013. Ms. Killion will be on vacation and unavailable and Ms. Levin needs to recuse herself from the matter so she will not be in attendance for the special meeting.

Staff reminded and strongly encouraged Board members to attend the OML program presented by the AG staff on November 20, 2013. Members noted their interest in the subject matter and suggested that more advanced notice be given to help them schedule to attend, inquired about webcast, video, PowerPoint or other ways to review the content of the presentation

ACTION:

Members agreed to meet on November 22, 2013 at 9 a.m. with a rain/snow date of Saturday November 23, 2013 at 10 a.m. Mr. Harb will make sure both S. Kelly and J. Roy will be available to meet on the agreed upon dates and confirm the dates to all.

TOPIC:

Adjournment

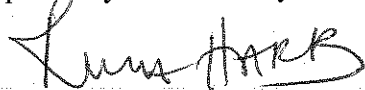
DISCUSSION:

None

ACTION:

Motion by E. R. Rothmund, seconded by A Peckham, and passed unanimously to adjourn the meeting at 2:06 p.m.

Respectfully submitted by:



Rula Harb, MS, RN, Executive Director
Board of Registration in Nursing

Reviewed by: Mary Strachan, Board Counsel
Board of Registration in Nursing

Agenda with exhibits list attached